

# Ordinance



City Council  
City of Wilmington  
North Carolina

Introduced By: Sterling B. Cheatham, City Manager

Date: 1/22/2019

**Ordinance Amending the Land Development Code Chapter 18, to Allow Whole-house Lodging in Residential, Historic, and Multi-family Districts as a Use Permitted with Prescribed Conditions (LDC-1-717B)**

**LEGISLATIVE INTENT/PURPOSE:**

WHEREAS, NCGS Section 160A-385 authorizes local governments to amend ordinances regulating land use within their jurisdiction; and

WHEREAS, the amendment set out below is made in accordance with NCGS Section 160A-364 and Article 3, Section 18-117 of the Land Development Code; and

WHEREAS, City Council finds that the sharing economy that is being nationally embraced is a growing trend by the public to provide accommodations in their homes to travelers. Council finds the provision of such lodging accommodations can be beneficial under certain circumstances and, if properly regulated, peer-to-peer lodging can provide a means of assisting property owners to keep properties in good repair, which, in turn, stabilizes home ownership, maintains property values, and strengthens the economy of the City; and

WHEREAS, it is important to maintain the residential character of the neighborhoods within the city. Absent appropriate controls on the number and manner and places of operation of whole-house lodging, neighborhoods stand to be harmed by undue commercialization and disruption to the primary and overarching purpose of a neighborhood being first and foremost a residential community, where people actually live, not a place of short-term occupancy. Access to housing is not the same as access to homeownership, and inordinate reductions in the supply of housing available for standard rentals for the citizens of Wilmington could have a destabilizing effect on housing affordability; and

WHEREAS, there are many different built environments of neighborhoods within the city of Wilmington. Within the 1945 Corporate Limits, neighborhoods are generally dense, have narrow streets, and limited off-street parking and more impacted by commerce and tourists than other neighborhoods within the city. These circumstances require careful consideration if the residential character of these neighborhoods is to be protected; and

WHEREAS, the regulations set forth in this section recognize the different characteristics and built environments of different neighborhoods within the city by maintaining the residential character of neighborhoods by limiting the number of location of whole-house lodging, thereby curbing the potential of neighborhoods to become predominantly places for short-term tenants; and

CERTIFIED TO BE A TRUE COPY  
Sterling B. Cheatham  
City Clerk

WHEREAS, the amendment set out below is intended to promote the public health, safety, and welfare by amending the Land Development Code to include regulations for whole-house lodging.

**THEREFORE, BE IT ORDAINED:**

SECTION 1: Chapter 18, Article 5 of the Land Development Code, Section 18-177. R-20. Residential District (c) is hereby amended to add:  
(12) Whole-house lodging

SECTION 2: Chapter 18, Article 5 of the Land Development Code, Section 18-178. R-15. Residential District (c) is hereby amended to add:  
(11) Whole-house lodging

SECTION 3: Chapter 18, Article 5 of the Land Development Code, Section 18-179. R-10. Residential District (c) is hereby amended to add:  
(12) Whole-house lodging

SECTION 4: Chapter 18, Article 5 of the Land Development Code, Section 18-180. R-7. Residential District (c) is hereby amended add:  
(12) Whole-house lodging

SECTION 5: Chapter 18, Article 5 of the Land Development Code, Section 18-181. R-5. Residential District (c) is hereby amended to add:  
(12) Whole-house lodging

SECTION 6: Chapter 18, Article 5 of the Land Development Code, Section 18-182. R-3. Residential District (c) is hereby amended to add:  
(11) Whole-house lodging

SECTION 7: Chapter 18, Article 5 of the Land Development Code, Section 18-184. Multifamily Residential Districts (c) is hereby amended to add:  
(13) Whole-house lodging

SECTION 8: Chapter 18, Article 5 of the Land Development Code, Section 18-187. HD, Historic District (c) is hereby amended to add:  
(5) Whole-house lodging

SECTION 9: Chapter 18, Article 5 of the Land Development Code, Section 18-188. HD-MU, Historic District-Mixed Use (d) is hereby amended add:  
(7) Whole-house lodging



SECTION 10: Chapter 18, Article 5 of the Land Development Code, Section 18-189. HD-R, Historic District-Residential (d) is hereby amended to add:

(5) Whole-house lodging

SECTION 11: Chapter 18, Article 6 of the Land Development Code is hereby amended to add:

Sec. 18-331. Whole-house lodging uses in the residential, multifamily, and historic districts.

1. Within the R-20, R-15, R-10, R-7, R-5, R-3, MF, HD, HD-R, and HDMU districts, whole-house lodging establishments are permitted subject to the following conditions. Whole-house lodging is not permitted within the MHP district.
2. Each whole-house lodging establishment shall meet the minimum separation distance from any other residentially-zoned whole-house lodging establishment or any properly permitted bed and breakfast lodging also within a residential zoning district, as measured from parcel line to parcel line. In the case of a duplex, triplex, quadraplex or multifamily development, this shall be measured from the parent parcel lines. The total number of permitted uses shall be limited by a cap.

The separation distances and caps shall be:

Within the 1945 Corporate Limits: 400 feet, with a cap of no more than 2% of the total number of residentially-zoned parcels within the 1945 Corporate Limits being eligible for use as whole-house lodging establishments.

Outside the 1945 Corporate Limits: 400 feet, with a cap of no more than 2% of the total number of residentially-zoned parcels outside of the 1945 Corporate Limits being eligible for use as whole-house lodging establishments.

3. Such uses shall require a local operator, available 24 hours per day, within 25 miles of the subject property.
4. Registration.
  - (a) The property owner shall register each establishment annually with the city of Wilmington.
  - (b) The owner shall provide proof of possession of the registered premises.
  - (c) A registration number shall be assigned to each registered establishment, which shall be clearly noted along with any advertisement for lodging.
  - (d) Registration is limited to natural persons only and no person shall be eligible for more than one registration for a whole-house lodging in any residential district.
  - (e) Active registrations shall not expire; however, all property owners shall renew registration on an annual basis. Registrations not renewed on an annual basis shall deem the use terminated by the property owner.



- (f) Registration does not vest the premises or the property owner with any rights. Registration terminates upon the transfer of the property.
  - (g) Only one registration may be issued per property, either whole-house lodging or bed and breakfast lodging, at any given time.
  - (h) For the initial registration process, a lottery method shall be utilized based on the cap and separation requirements. Subsequent registrations will be processed by the city manager on a first-come, first-served basis.
5. A minimum of one off-street parking space, of an all-weather surface, per bedroom is required. Within HD, HD-R, and HDMU districts, only curb cuts existing at the time of the adoption of this ordinance may be used to provide off-street parking. If off-street parking is not available on site, shared parking or rented spaces in a private or municipal parking deck or lot may be used to satisfy this parking requirement. Proof of a shared parking plan or rental of spaces shall be included with annual registration. A shared parking plan will be enforced through written agreement among all owners of record. An attested copy of the agreement between the owners of record must be approved by the city attorney and submitted to the city for recordation on forms made available in the office of the city attorney. Recordation of the agreement must take place before issuance of a registration for any short-term lodging use to be served by the off-site parking area. A short-term lodging registration shall be revoked if required off-street parking spaces cannot be provided.
6. The use provisions of this section are not subject to variance by the board of adjustment.
7. The definition of "family" and the restriction of a minimum thirty (30)-day rental period in the MF districts shall not apply to property registered whole-house lodging uses.
8. Any use for which there are three (3) final determinations of violations of the City Code and/or criminal convictions related to the parcel (on, adjacent to, or within the property) by a property owner, tenant, guest, host, lessee, or individual otherwise related directly to the property within any rolling three hundred sixty five (365)-day period, shall constitute a violation of the terms of registration and shall terminate registration. For any registration that terminated due to code/criminal violations, the property owner shall be ineligible for registration for a period of three (3) years.
9. A property owner who terminates registration shall be ineligible for registration for a period of three (3) years at that address.
10. Any property owner registering a whole-house lodging shall 1) be responsible for ensuring compliance with all federal, state, and local laws, including, but not limited to tax code, building code, fire code, and environmental health regulations for the level of occupancy of the lodging and 2) not allow any party, event, classes, weddings, receptions, or other large gatherings on the premises.



11. Property owners registering a whole-house lodging are responsible for keeping in full force and effect during all times the unit is used as a whole-house lodging commercial general liability insurance with a total limit of not less than \$500,000 each occurrence for bodily injury and property damage.
12. Registrants shall maintain records demonstrating the local operator, the dates of rental for the previous three hundred sixty five (365) days, and the number of renters. Such records shall be made available, upon request, to the City Manager.
13. Registration shall terminate upon any one of the following: discontinuance of use for a period of one hundred eighty (180) days or more, failure to renew annual registration, transfer of the property.
14. Written notice shall be conspicuously posted inside each short-term lodging unit setting forth the following information:
  - (a) The name and telephone number of the operator.
  - (b) The address of the lodging, the maximum number of overnight occupants permitted, and the day(s) established for garbage collection.
  - (c) The non-emergency phone number of the city of Wilmington Police Department.
  - (d) The annual registration number.
  - (e) That parties, events, classes, weddings, receptions, and large gatherings are not permitted.
15. The operator shall ensure that all refuse is stored in appropriate containers and set out for collection on the proper collection day and the carts removed from the street or alley on the scheduled collection day, in accordance with Sections 10-14 of the City Code.
16. Preparation and service of food by operators for guests shall be prohibited. No cooking shall be permitted in individual bedrooms.
17. Any establishments existing at the time of the adoption of this ordinance and conforming with the regulations effective prior to adoption of this ordinance for which registration cannot be accommodated due to the cap or the separation requirements shall have a one year amortization period. If, after this amortization period, the whole-house lodging establishment is unable to properly register, the use of the property as whole-house lodging must be terminated. Any such establishment shall register with temporary registration with the city manager register pursuant to Sec. 18-330(1).

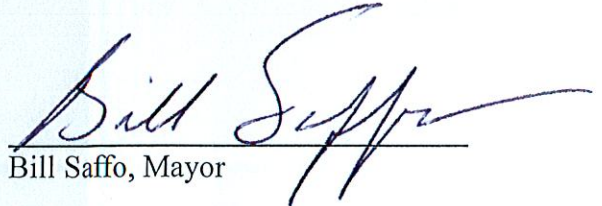
SECTION 12: That any person violating the provisions of this ordinance shall be subject to the penalties set forth in Article III, Section 18-52 of the Land Development Code.

SECTION 13: That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 14: That if any section, subsection, paragraph, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

SECTION 15: That this ordinance shall become effective on March 1, 2019.

Adopted at a regular meeting  
on February 5, 2019

  
Bill Saffo, Mayor

ATTEST:

  
Penelope Spicer-Sidbury, City Clerk

APPROVED AS TO FORM:

  
City Attorney

